

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

(1)PATRICIA COLLEEN SHELBY and)	
(2)BOBBY RAY HIX,)	
)	
Plaintiffs,)	
v.)	Case No. <u>CIV-22-166-JD</u>
)	
(3)TIMOTHY CLEMONS, and)	Jury Trial: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
(4)WERNER ENTERPRISES, INC,)	
)	
Defendants.)	

COMPLAINT

Plaintiffs, Patricia Colleen Shelby and Bobby Ray Hix, for their causes of action against the Defendants and each of them, state:

I. JURISDICTION AND VENUE

1. Plaintiffs Patricia Colleen Shelby (hereinafter “Shelby”) and Bobby Ray Hix (hereinafter “Hix”) are residents of Caddo County, State of Oklahoma. Shelby and Hix reside at 211 Spruce Lane, Hinton, Oklahoma 73047.

2. The Defendant, Timothy Clemons (hereinafter “Clemons”), at all relevant times was the agent, servant, and employee of Defendant Werner. Based on information and belief, Clemons resides at 13633 E. 44th Street, Yuma, Arizona 85367.

3. The Defendant, Werner Enterprises, Inc. (hereinafter “Werner”), is a foreign corporation with its principal place of business in Nebraska and may be served with process at Corporate Creations Network, Inc., 601 S. Boulder, #600, Tulsa, Oklahoma 74119.

4. The events giving rise to this Complaint occurred in Caddo County, State of Oklahoma. The amount in controversy exceeds \$75,000.00 in the case of each Plaintiff. This Court has jurisdiction and Venue under 28 U.S.C. § 1332 and 28 U.S.C. § 1391.

II. STATEMENT OF CLAIMS

5. On or about March 9, 2020, Plaintiffs vehicle was Eastbound, driven by Patricia Colleen Shelby and occupied by her adult son, Plaintiff Bobby Ray Hix. Plaintiffs were stopped in a line of traffic on Interstate 40 near Hinton, Caddo County, Oklahoma. Traffic was stopped and backed up for approximately one (1) mile from the point of collision.

6. Defendant Clemons as an agent, servant, and employee of Defendant Werner, driving an 18-wheel semi-trailer truck for and on behalf of Defendant Werner, was traveling Eastbound on Interstate 40 at a high rate of speed. Defendant Clemons failed to apply his brakes, or attempt to swerve out of the way, and struck a vehicle which was stopped behind Plaintiffs' vehicle, knocking that vehicle into Plaintiffs' vehicle causing Plaintiffs' vehicle to violently rotate and travel toward the middle of the Eastbound lanes where it impacted another vehicle.

III. CLAIMS AGAINST DEFENDANT TIMOTHY CLEMONS

7. Plaintiffs incorporate each and every allegation in the preceding paragraphs as if fully reiterated and allege and state that Clemons acted willfully, negligently, and recklessly by failing to apply his brakes, by not attempting to swerve into the other lane or on to the shoulder of the road, by failing to devote full time and attention to his driving. Defendant Clemons' actions were negligent per se, in direct violation of local, state, and

federal law and were done with knowledge that such actions created a high probability that serious harm would come to other people using the highway.

8. As a result of the acts of Clemons, and Werner, by application of the doctrine of respondeat superior, the Plaintiffs and each of them were severely injured, suffered permanent, progressive and painful injuries, will continue to require medical care and treatment in the future, and both suffered damages in an amount in excess of \$75,000.00. In addition, Plaintiffs seek punitive damages against Defendants and each of them for their gross negligence and reckless disregard for the rights of others, including Plaintiffs.

IV. CLAIMS AGAINST DEFENDANT WERNER ENTERPRISES, INC.

9. Plaintiffs allege that Defendant Timothy Clemons was acting as agent, servant, and employee of Werner Enterprises, Inc. at the time this collision occurred. Werner is liable for the willful, negligent, reckless, reckless disregard of Timothy Clemons by reason of the doctrine of respondeat superior.

10. Werner Enterprises, Inc. owned, possessed, and/or controlled the semi-trailer truck Clemons was driving. Werner has an independent duty to ensure that people driving vehicles on their behalf are qualified, safe, properly trained, and acting in a reasonable, non-reckless, and non-negligent way when it entrusts vehicles to its drivers. Based on information and belief, Plaintiffs allege that Werner has a history, pattern, and practice of putting unsafe, unqualified, and poorly trained drivers on the road. Werner acted independently by breaching its duty and was guilty of reckless disregard for the rights of others and, in particular, these Plaintiffs. Werner acted with gross negligence, with malice, and with intent when it failed to properly train Defendant Clemons.

V. RELIEF CLAIMED

11. Plaintiff, Patricia Colleen Shelby, and Plaintiff, Bobby Ray Hix, each pray for judgment against Defendants Timothy Clemons and Werner Enterprises, Inc. in an amount in excess of \$75,000.00 for property damage, injuries to their entire bodies, permanent disability, conscious pain and suffering, medical bills, expenses associated with significant medical care and treatment, loss of income, loss of future income, future medical care and treatment, actual and continuing damages, for punitive damages for intentional acts of negligence, or negligence so gross by Defendants and each of them as to be classified as intentional, their costs, interest, attorney's fees, and any other relief this court deems just, equitable, and proper.

Respectfully submitted,

s/Jim W. Lee

Jim W. Lee, OBA No. 5336

LEE & KISNER

201 NW 63rd Street, Ste. 230

Oklahoma City, Oklahoma 73116

Ph: (405) 848-5532

jimlee@legalassociatesllc.net

-and-

s/Steven T. Horton

Steven T. Horton, OBA No. 14589

HORTON LAW FIRM

114 NW 6th Street, Ste. 201

Oklahoma City, Oklahoma 73102

Ph: (405) 606-8080

shorton@coxinet.net

Attorneys for Plaintiffs